

5/22/85 - DRAFT #1
MARID ✓ W

In the matter of)
1983 Cable Royalty)
Distribution Proceeding)

CRT Docket No. 84-1 83CD

Amended
5/23/85
pr Bc 6

ORDER

On May 3, 1985, the Canadian Claimants filed a motion to strike the prehearing statement of the Devotional Claimants, and to order the Devotional Claimants to file a prehearing statement that complies with the Notice Commencing 1983 Cable Distribution Proceeding, 50 Fed. Reg. 13845 (April 8, 1985). The Canadian Claimants assert that the Devotional Claimants' claim for "television and radio programs which are of a religious theme or are produced by a religious entity" is too vague. The Canadian Claimants also object to the prehearing statement because it does not identify the parties encompassed within the claimant group.

On May 10, 1985, the Devotional Claimants replied to the motion filed by the Canadian Claimants. The Devotional Claimants state that they believe their statement is not vague. They state that they do not seek compensation for cable carriage of theatrical movies produced by the Hollywood studios, but only for television and radio programs of a religious theme as well as secular programs produced by a religious entity. The Devotional Claimants also state that they identified the parties encompassed within their claimant group as the "copyright owners of the programming described.....," and that this was sufficient to meet the requirements of the Tribunal's April 8 Notice. The Devotional Claimants point out that neither PBS nor NAB

individually named the broadcast stations which they represent.

Discussion

The Tribunal is satisfied that the Devotional Claimants have adequately described the "nature of works for which claims are made." As stated in our prehearing conference of March 26, 1985, and again in our April 8 Notice the prehearing statements are strictly for notice purposes and are intended to be brief. We agree with the Devotional Claimants that no confusion was created by their statements. However, we do note that the Devotional Claimants include radio programs in their prehearing statement. Although not the subject of any objection by any party, the Tribunal will strike the words, "and radio" from the prehearing statement because (1) it is consistent with our discussion of the issue in our Order of May 20, 1985 and (2) a preliminary review of the written direct case of the Devotional Claimants reveals no testimony regarding cable carriage of distant radio signals.

Regarding the second issue raised by the Canadian Claimants, the Tribunal believes that there is disagreement among the parties as to the meaning of our requirement that the prehearing statement contain "Identification of Parties encompassed within a claimant group." MPAA, for example, listed all 79 claimants it represents. The Devotional Claimants and NAB describe their claimants. PBS describes some of their claimants and identifies others. The Tribunal agrees with the Canadian Claimants that "identification of Parties encompassed with a claimant group" means identification and not description. Therefore, the

Tribunal orders the Devotional Claimants, NAB and PBS to file supplements to their prehearing statement by June 4, 1985 listing each claimant they represent.

Edward W. Ray
Acting Chairman

May 22, 1985